

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ERIK KHAN,
Plaintiff,

v.

No. 15-cv-1151 MV/SMV

CHRIS BARELA, et al.,
Defendants.

**ORDER DENYING MOTION FOR ORDER TO ISSUE
SUMMONS AND MEMORANDUM OF LAW IN SUPPORT**

THIS MATTER is before the Court on Plaintiff Erik Khan's Motion for Order to Issue Summons and Memorandum of Law in Support [Doc. 77]. The Court will deny Khan's Motion as premature.

In his Motion for Order to Issue Summons, Khan asks the Court "for an order approving his Prisoner's Second Amended and Verified Civil Rights Complaint [Doc. 70] and causing summonses to be issued and served upon the defendants." [Doc. 77] at 1. Khan filed his Second Amended Complaint on November 7, 2016. [Doc. 70]. Since filing of the Second Amended Complaint, Khan has sought three stays of the proceedings in this case. [Docs. 71, 72, 73]. Khan asked that his requested stays be lifted on June 30, 2017. [Doc. 74]. After the filing of his request to lift the stay, the Court's mailings to Khan were immediately returned as undeliverable. [Doc. 75]. Khan did not file a notice of change of address until November 6, 2017. [Doc. 79].

Under 28 U.S.C. § 1915A, the Court is obligated to review "a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a

governmental entity. On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.” 28 U.S.C. § 1915A. The Court is conducting, but has not completed, the mandatory review of the Second Amended Complaint as required by § 1915A. If Khan’s Second Amended Complaint survives the preliminary review, in whole or in part, the Court will issue and serve process as provided in 28 U.S.C. § 1915(d).

IT IS THEREFORE ORDERED that the Motion for Order to Issue Summons and Memorandum of Law in Support filed by Plaintiff Erik Khan [Doc. 77] is **DENIED** as premature.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge